

Classification and Pay Administration

Grade and Pay Retention

Summary of Changes. This regulation establishes the California National Guard's Highest Previous Rate and Maximum Payable Rate policy for California National Guard technicians. It replaces in part the Technician Personnel Manual, dated March 2000, Chapter 4.

Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and California Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

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1. Purpose.

This full-time personnel regulation establishes the guidelines regarding the use and entitlement of grade and pay retention benefits to technicians of the California National Guard.

2. References

32 U.S.C. § 709; 5 U.S.C. §§ 5343 and 5361 - 5366; 5 CFR 532.419; 5 CFR 536.101 – 536.308; DoD 1400.25-M, Chapter 500; DoD 7000.14-R, Volume 8, Chapter 3; DoD Memoranda “Grade and Pay Retention”, 13 Feb 87, 2 Nov 90, and 16 Jun 92.

3. Policy.

The Chief, National Guard Bureau, has delegated to The Adjutant General the authority to extend grade and pay retention benefits resulting from personnel actions initiated by management to further the agency's mission, to the extent that the general intent of the law and regulations governing grade and pay retention is met.

4. Grade Retention Entitlement.

a. A grade retention entitlement is the right of a technician to retain for 2 years, for pay and benefits purposes, the grade of the position from which he or she was reduced (5 U.S.C. 5362 and 5 CFR part 536). A technician on grade retention receives 100 percent of all pay increases (pay adjustments, within-grade increases) of the retained grade. The basic eligibility requirements for grade retention are:

- (1) Grade not reduced for personal cause or at technician's request.
- (2) Must have 52 weeks at higher grade in a permanent position.
- (3) If reclassification, position must be at old grade for one year.

5. Mandatory Use of Grade Retention.

Grade retention is mandatory for technicians reduced in grade because of Reduction-in-Force (RIF) or due to reclassification.

6. Optional Use of Grade Retention.

Grade retention is optional for mission-related reasons and is at the discretion of The Adjutant General.

7. Grade Retention.

In addition to the situations covered under 5 CFR 536.103, and DoD Memoranda “Grade and Pay Retention”, 13 Feb 87, 2 Nov 90, and 16 Jun 92 (Appendix A), the National Guard Bureau authorizes grade retention for permanent technicians in the following situations:

- a. For technicians who are given a management-directed change to lower grade to accommodate a reorganization or reallocation of forces.
- b. For technicians who are changed to a lower graded position in order to accommodate military career progression requirements.

8. Termination of Grade Retention.

Termination of grade retention occurs:

- a. At the end of the two year period.
- b. After a one workday break in service.
- c. Demoted for personal cause or by technician's written request.
- d. Placement in equal or higher position.
- f. Declination of a reasonable equal grade job offer.

9. Pay Retention Entitlement.

Pay retention entitlement is the right of a technician to retain, under certain circumstances, a rate of basic pay higher than the maximum rate of the grade for the position occupied. The basic eligibility for pay retention is a requirement not excluded by Federal Personnel Regulation (FPR) 550. Technicians on pay retention receive 50 percent of all pay adjustments until their pay is equal to or less than the maximum step of the grade (step 10 for GS, step 5 for FWS). A retained rate is established based on an employee's payable rate of basic pay (including any locality or special rate). A retained rate now includes a locality rate; therefore, a locality rate may no longer be paid on top of a retained rate (5 CFR 536.103 and 5 CFR 536.305).

10. Mandatory Pay Retention.

Mandatory pay retention requirements are:

- a. Grade retention time requirements not met.
- c. Transfer from a special rate position to a non-special or lower-level special rate position.
- d. Grade retention expires.

f. Loss or reduction of special rates.

11. Optional Use of Pay Retention.

Pay Retention may be offered for:

- a. Mission-related reasons at the Adjutant General's discretion.
- b. Move due to ill health in lieu of disability or retirement.
- c. Filling a designated hard-to-fill position.

12. Pay Retention Situations.

In addition to the situations covered under 5 CFR 536.104, and DoD Memorandum "Grade and Pay Retention", 13 Feb 87, the National Guard Bureau has authorized pay retention for permanent technicians in the following situations:

- a. Officer personnel terminated due to the Reserve Officer Personnel Management Act (ROPMA) who are qualified for appointment to an enlisted or competitive position.
- b. A technician who is restored to a lower graded position following an AGR or Title 10 tour. Pay retention applies only when the restoration occurs in accordance with Title 38 of the United States Code, Sections 4314 through 4316.

13. Termination of Pay Retention.

Termination of pay retention occurs:

- a. After one workday break in service.
- b. Demoted for personal cause or by technician's written request.
- c. Entitlement to an equal or greater rate.
- d. Declination of reasonable offer.

14. Combined Grade and Pay Retention.

a. Under certain circumstances a technician is entitled to both grade and pay retention, if a technician's rate of basic pay would be reduced while entitled to grade retention as a result of placement in a lower pay schedule, but excluding any reduction that results from a geographic conversion, the employee would also be eligible for pay retention. Technicians on grade and pay retention receive 50 percent of the annual pay increase at the maximum rate of the retained grade (5 CFR 536.206 (b) and 5 CFR 536.305).

b. The National Guard Bureau authorizes grade and pay retention for permanent technicians in the following situation:

(1) For technicians who are placed in a non-Special Salary Rate (SSR) position from a SSR position as a result of a RIF or reclassification and meets the requirements for grade retention, but the technician's pay under grade retention exceeds the maximum rate of the applicable pay range (GS step 10 or FWS step 5) for the new position, as a result the technician is entitled to pay retention.

15. Documentation.

Grade and pay retention actions must be fully justified and documented in the Official Personnel Folder of the affected individual.

FOR THE GOVERNOR:

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